

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 12

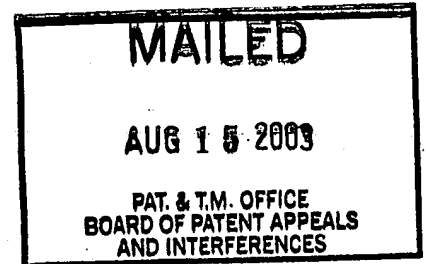
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte FRANK THOMAS

Appeal No. 2003-0584
Application No. 09/845,280

ON BRIEF



Before COHEN, FRANKFORT, and STAAB, Administrative Patent Judges.
FRANKFORT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 through 4. Claims 5 through 25, which are all of the other claims remaining in this application, stand allowed.

Appellant's invention is directed to a golf club having an alignment means thereon and, more specifically, to a putter having alignment means thereon in the form of an alignment mark or line which extends along a surface of the golf club shaft and

Appeal No. 2003-0584
Application No. 09/845,280

a surface of the head in a common plane with the longitudinal axis of the shaft and parallel to the striking face of the head. Independent claim 1 is representative of the subject matter on appeal and a copy of that claim, as reproduced from the Appendix to appellant's brief, is attached to this decision.

The prior art references relied upon by the examiner in rejecting the appealed claims are:

Reach	1,433,150	Oct. 22, 1922
Seisaku ¹	5-329233	Dec. 14, 1993

Claims 1 through 4 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Reach in view of Seisaku.

Rather than attempt to reiterate the examiner's full commentary with regard to the above-noted rejection and the conflicting viewpoints advanced by the examiner and appellant

¹ Both the examiner and appellant refer to this reference as "Seisaku" and for the sake of clarity we will do so in our discussions below, although we note that the named inventor is Shoichi Tateishi. In addition, we note that our understanding of this foreign language document is based on a translation prepared for the U.S. Patent and Trademark Office. A copy of that translation is attached to this decision.

Appeal No. 2003-0584
Application No. 09/845,280

regarding that rejection, we make reference to the examiner's answer (Paper No. 10, mailed October 18, 2002) for the reasoning in support of the rejection, and to appellant's brief (Paper No. 9, filed September 23, 2002) for the arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to appellant's specification and claims, to the applied prior art references, and to the respective positions articulated by appellant and the examiner. As a consequence of our review, we have made the determination that the examiner's rejection of claims 1 through 4 will be sustained. Our reasoning follows.

However, before looking to the prior art rejection, we note that it is an essential prerequisite that the claimed subject matter be fully understood. Accordingly, we initially direct our attention to appellant's independent claim 1 to derive an understanding of the scope and content thereof. Claim 1 sets forth a golf club comprising a shaft (11) having a longitudinal axis, a head (13) extending laterally from one end of the shaft

and having a flat striking face (14) thereon, and "an alignment means [e.g., 15] extending along a surface of said club shaft and said head in a plane perpendicular to said longitudinal axis of said shaft and parallel to said striking face of said head." It is the last clause of claim 1 that is of concern, in that we do not see how an imaginary plane defined by and including the alignment means on the shaft and head of the golf club can be said to be "perpendicular to said longitudinal axis of said shaft." In that regard, it is not clear to us how a plane can be said to be perpendicular to an axis or line that lies in the plane.

Looking at Figures 1 and 2 of the application drawings, we observe that the imaginary plane defined by the alignment means (15) on the shaft (11) and head (13), as viewed for example in Figure 2, would include the longitudinal axis (12) of the shaft and would be considered to be perpendicular to the plane of the paper which also includes shaft axis (12), but that the imaginary plane in question would not be considered to be perpendicular to the line or axis (12).

Appeal No. 2003-0584
Application No. 09/845,280

In our view, the specification (e.g., page 2) more correctly sets forth that the alignment device which extends along a surface of the club shaft and a surface of the head is "in a common plane with the longitudinal axis of the shaft and parallel to the striking face of the head." For purposes of this appeal, we understand the language of claim 1 to require this relationship and suggest that appellant consider, during any further prosecution of the application before the examiner, amending claim 1 to make this point clear.

Claim 3 on appeal adds to the subject matter of independent claim 1 that the alignment means is "a discontinuous line." While page 6, lines 15-16, of the specification indicate that this embodiment of the invention is "shown in Fig. 2," we find no such showing in Figure 2 of the drawings. Since the specification provides no other guidance as to what constitutes "a discontinuous line," we give this terminology its broadest reasonable interpretation consistent with common usage. Thus, a "discontinuous line" is a line which is broken up by at least one interruption or gap and is therefore made up of a series of aligned line segments separated by a gap or gaps.

Appeal No. 2003-0584
Application No. 09/845,280

With the above in mind, we turn to the examiner's rejection of claims 1 through 4 on appeal under 35 U.S.C. § 103(a) based on the collective teachings of Reach and Seisaku. Reach discloses a golf club comprising a shaft (b) having a longitudinal axis, a head (a) extending laterally from one end of the shaft and having a flat striking face thereon and a hosel extending angularly upwardly from the top surface of the head and into which the shaft (b) is mounted. Reach also discloses an alignment means in the form of a sighting line or groove (c) formed on and extending along a surface of the club head and up to the top of the hosel and arranged in a common plane with the longitudinal axis of the shaft (b) and parallel to the striking face of the head.

Reach notes (page 1, lines 30-39) that it is a principal object of the invention therein to provide in the head of a golf club designed primarily for putting, a sight line of materially greater length than the face of the club and of materially greater length actually and as viewed by the player, than the head of the club, which sighting line will improve the accuracy of play without disturbing the "feel" and balance of the club. On page 1, lines 53-57, it is indicated that the line, as viewed from above, presents a very substantial length to the eye and

Appeal No. 2003-0584
Application No. 09/845,280

thereby facilitates the squaring of the club face with an intended line of play.

The examiner recognizes (answer, page 3) that Reach lacks a sighting line which extends onto the surface of the shaft (b), as required in claim 1 on appeal. To account for this difference the examiner turns to Seisaku, indicating that this reference shows that it is old in the golf club art to provide an alignment means extending along and displayed on the shaft surface and oriented parallel to the face of the putter, so as to facilitate setting the face of the putter in perpendicular alignment with a putting line to the hole or other target.

Based on the combined teachings of Reach and Seisaku, the examiner concludes that it would have been obvious to one of ordinary skill in the art at the time of appellant's invention to extend the sighting line (c) of Reach onto and along the shaft (b) of the putter therein, with the motivation being to provide an even longer sighting line than shown in Reach and thus enhance the effect of the alignment means. We agree.

Appeal No. 2003-0584
Application No. 09/845,280

In both Reach and Seisaku, it is recognized that sighting of the face of a putter with the line of play or putting line by attempting to bringing the face of the putter into a perpendicular orientation with the line of play is limited by the size of the head of the putter viewable by a player at address and, more particularly, the length of the head from the base of the shaft to the leading edge or toe end of the putter. In both Reach and Seisaku, it is further recognized that an improvement in setting and alignment of the putter with respect to the line of play can be achieved by utilizing an alignment means or sighting line arranged parallel to the face of the putter and having a substantial length. In Reach, a sighting line in the form of a groove, rib or insert is provided and extends from the toe of the club head to the top of the hosel. In Seisaku, the sighting line (tape or mark) is displayed on and extends along a substantial portion of the length of the shaft and is arranged parallel to the face of the putter.

Like the examiner, it is our conclusion from a consideration of the combined teachings of the applied prior art that it would have been obvious to one of ordinary skill in the art at the time of appellant's invention to provide a golf club (e.g., a putter)

Appeal No. 2003-0584
Application No. 09/845,280

utilizing a sighting line on the putter head and hosel and the club shaft, wherein such line is arranged to be parallel to the face of the putter. As is generally apparent from both Reach and Seisaku, the goal of such an extended sighting line is to hold the eye more readily and improve the accuracy of play without disturbing the proper "feel" and balance of the putter, while presenting the eye with a sighting line of relatively great length thereby facilitating squaring of the putter face to the line of play.

Appellant's arguments in the brief have not convinced us that the examiner's position is in error. In the interest of holding the eye more readily and presenting the eye with a sighting line of relatively great length thereby facilitating squaring of the putter face to the line of play, we are of the opinion that one of ordinary skill in the art would have found it obvious to either extend the sighting line (c) of Reach onto and along the club shaft, as urged by the examiner, or would have at the very least ensured that the sighting line on the shaft and that on the club head were of the same size (width) and in alignment with one another. The first of the above arrangements would provide a sighting or alignment means in the form of a

Appeal No. 2003-0584
Application No. 09/845,280

continuous line, while the second would involve a sighting or alignment means in the form of a discontinuous line.

As for appellant's assertion (brief, page 6) that neither of the applied references teaches aligning the putter with a cup or intended path, we note that Reach on several occasions talks of the need to facilitate sighting of the face of the putter therein with respect to the "line of play" and, more particularly, of bringing the face of the club into an orientation where it is squared with the "line of play." Seisaku (translation, page 2, last paragraph) likewise discusses the need for setting the face of the putter "in perpendicular alignment with the putting line" during putting, and provides a sighting line on the club of substantial length to thereby provide a putter that is set easily and accurately.

In light of the foregoing, it is our determination that the examiner's rejection of claims 1 through 4 under 35 U.S.C. § 103(a) as being unpatentable over Reach in view of Seisaku will be sustained.

Appel No. 2003-0584
Application No. 09/845,280

It follows from the above determination that the decision of the examiner rejecting claims 1 through 4 of the present application is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED



IRWIN CHARLES COHEN
Administrative Patent Judge

Charles E. Frankfurt

CHARLES E. FRANKFORT
Administrative Patent Judge

BOARD OF PATENT
APPEALS
AND
INTERFERENCES

Lawrence. Stob

LAWRENCE J. STAAB
Administrative Patent Judge

CEF/lbg

Appeal No. 2003-0584
Application No. 09/845,280

FRANCIS C. HAND, ESQ.
CECCHI, STEWART & OLSTEIN
6 BECKER FARM ROAD
ROSELAND, NJ 07068